

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VINCENT MATTHEW FORTIN,

Defendant.

CR 12-07-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Vincent Matthew Fortin (Fortin) has been accused of violating the conditions of his supervised release. Fortin admitted all of the alleged violations, except two. Fortin's supervised release should be revoked. Fortin should be placed in custody for 4 months, with 12 months of supervised release to follow. Fortin should serve the first 60 days of supervised release at an inpatient drug treatment facility approved by the United States Probation Office.

II. Status

Fortin pleaded guilty to Domestic Abuse by a Habitual Offender on March 1, 2012. (Doc. 23). The Court sentenced Fortin to 41 months of custody, followed by 3 years of supervised release. (Doc. 33). Fortin's current term of supervised release began on January 20, 2016. (Doc. 47 at 1).

Petition

The United States Probation Office filed a Petition on March 6, 2019, requesting that the Court revoke Fortin's supervised release. (Doc. 47). The Petition alleges that Fortin violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by failing to follow the instructions of his probation officer; 3) by using methamphetamine; 4) by failing to report for substance abuse treatment; and 5) by failing to report to his probation officer as directed. (Doc. 47 at 1-2).

Initial appearance

Fortin appeared before the undersigned for his initial appearance on April 9, 2019. Fortin was represented by counsel. Fortin stated that he had read the petition and that he understood the allegations. Fortin waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on April 9, 2019. Fortin admitted that he had violated the conditions of his supervised release: 1) by failing to report for substance abuse testing; 2) by using methamphetamine; and 3) by failing to report to his probation officer as directed. The Court dismissed alleged

Violations 2 and 4 on the government's motion. The admitted violations are serious and warrant revocation of Fortin's supervised release.

Fortin's violations are Grade C violations. Fortin's criminal history category is II. Fortin's underlying offense is a Class D felony. Fortin could be incarcerated for up to 24 months. He could be ordered to remain on supervised release for up to 35 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months.

III. Analysis

Fortin's current term of supervised release should be revoked. Fortin should serve a term of custody of 4 months, followed by 12 months of supervised release. Fortin should serve the first 60 days of supervised release at an inpatient drug treatment facility approved by the United States Probation Office. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Fortin that the above sentence would be recommended to Judge Morris. The Court also informed Fortin of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Fortin that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and

what, if any, sanction to impose.

The Court **FINDS:**

That Vincent Matthew Fortin has violated the conditions of his supervised release by failing to report for substance abuse testing, by using methamphetamine, and by failing to report to his probation officer as directed.

The Court **RECOMMENDS:**

That the District Court revoke Fortin's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of 4 months, with 12 months of supervised release to follow. Fortin should serve the first 60 days of supervised release at an inpatient drug treatment facility approved by the United States Probation Office.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may

waive the right to appear and allocute before a district court judge.

DATED this 10th day of April, 2019.



John Johnston
United States Magistrate Judge